

EXHIBIT 3

Willa Payne

From: Charles Spagnoli <cspagnoli@fwmlawfirm.com>
Sent: Monday, October 30, 2017 9:06 AM
To: Willa Payne
Cc: Josh Cotter; Susan Young; Frank W. Miller
Subject: RE: Good Faith-Outstanding Discovery

Dear Willa,

It is our position that, for reasons explained below, moving forward with the discovery at this time is unnecessary and inefficient. However, we are happy to discuss a mutually acceptable compromise.

As you know, we have filed a dispositive motion as to all claims in the case. If it is granted, then any discovery the parties conduct will have been entirely wasted effort. If it is not granted, the court will give the parties time to conduct the discovery then. Thus, there is no purpose to proceeding with discovery now.

Further, we have requested a stay of all discovery, including the discovery demands you have propounded. Obviously, we are not going to simply agree to respond to the discovery demands, thereby rendering our pending request entirely moot.

We recognize that you may intend to claim you need certain discovery to prepare an opposition to the motion. We believe any such claim is meritless, because further discovery could not help you meet the legal arguments actually presented in the motion; to the extent the motion depends on certain facts being established, they were established by your client's admissions at the preliminary injunction hearing, and you cannot use discovery to overcome the force of your client's admissions. In any event, you ordinarily would need to present such a claim to the judge deciding our motion, and we would be within our rights to await the judge's decision on any such claim.

However, in the spirit of compromise and cooperation in the discovery process, we are willing to explore the possibility of limited responses to your written discovery demands. Thus, if you will specify which of your production requests, categories of documents specified by your requests, interrogatories, or categories of information sought by your interrogatories are, in your opinion, actually needed to respond to our pending combined motion, we will consider the proposal in good faith with an eye toward reaching a mutually acceptable resolution of this issue.

Please advise at your next convenience. Thank you.

Charles C. Spagnoli
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From: Willa Payne [mailto:wpayne@lscny.org]
Sent: Thursday, October 26, 2017 3:50 PM
To: Charles Spagnoli <cspagnoli@fwmlawfirm.com>; Frank W. Miller <fmiller@fwmlawfirm.com>
Cc: Josh Cotter <jcotter@lscny.org>; Susan Young <syoun@lscny.org>
Subject: Good Faith-Outstanding Discovery

Charles-